

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

HERBERT LYNN, JR. and)
ANGIE LYNN,)
Plaintiffs,)
v.)
THE TRAVELERS HOME AND)
MARINE INSURANCE)
COMPANY, INTEGRITY)
INSURANCE AND FINANCIAL)
FINANCIAL SERVICES,)
PRONET GROUP, INC.,)
Defendants.)

CIVIL ACTION FILE NO.:

NOTICE OF REMOVAL

COMES NOW, Travelers Home and Marine Insurance Company (“Travelers”), Defendant in the above-styled action and petitions for removal of the action herein referred from the Superior Court of Gwinnett County, Georgia to the United States District Court for the Northern District of Georgia, Atlanta Division, and respectfully shows the Court the following:

1.

Travelers is a Defendant in a civil action brought against it in the Superior Court of Gwinnett County, Georgia, and styled Herbert Lynn, Jr. and Angie Lynn v. Travelers Home and Marine Insurance Company, Integrity Insurance and Financial Services, ProNet Group, Inc., Civil Action File No. 22A09280-4, now pending in said court. A copy of the Summons to Travelers, Complaint, Sheriff's Entry of Service on Travelers, Travelers' Answer to Complaint, Amended Complaint, Plaintiffs' Request for Judicial Notice of Dismissed Federal Action, Summons to Defendant ProNet, and Summons to Defendant Integrity Insurance filed in that action are attached hereto, marked as Exhibit "A", "B", "C", "D", "E", "F", "G" and "H" made a part hereof. A copy of Travelers' Answer to Plaintiff's Amended Complaint filed in that action is attached hereto, marked as Exhibit "I", and made a part hereof. These documents constitute all pleadings that have been filed in the Superior Court of Gwinnett County.

2.

Said action was previously removed to this Court on November 28, 2022 and assigned Civil Action File No.: 1:22-cv-04692-WMR. [Doc. 1, 1:22-cv-04692-WMR]. Following appearance of Plaintiffs' counsel [Doc. 7, 1:22-cv-04692-WMR],

Plaintiffs filed an unopposed Motion to Dismiss [Doc. 8, 1:22-cv-04692-WMR], which this Court granted on January 23, 2023. [Doc. 9, 1:22-cv-04692-WMR]. Following the dismissal, rather than filing a new lawsuit, Plaintiffs filed an Amended Complaint in Superior Court of Gwinnett County, Civil Action File No. 22A09280-4, the same case that Travelers previously removed.

3.

In the Amended Complaint, Plaintiffs filed suit against Travelers as well as two new parties – Integrity Insurance and Financial Services (“Integrity”) and ProNet Group, Inc. (“ProNet”) (Exhibit “E”). This Petition is timely filed within thirty (30) days of the filing of the Amended Complaint.

4.

There is diversity of citizenship among the parties. This is a controversy between Plaintiffs, citizens of Georgia, and Travelers, a Connecticut corporation, whose principal place of business is in Connecticut at One Hartford Square, Hartford, Connecticut. Accordingly, Travelers is not a citizen of the State of Georgia wherein this action was brought. Plaintiffs purported to add Integrity, a Georgia Corporation, and ProNet, a Texas corporation, into the Superior Court action by way of amending their Complaint. However, Plaintiffs did not seek permission from the

Superior Court of Gwinnett County to add any additional defendants to this action. As such, no addition of either Integrity or ProNet occurred in the superior court lawsuit. O.C.G.A. §§ 9-11-15(a) and 9-11-21; *Campbell v. Quixtar, Inc.*, Civil Action No.: 2:08-CV-0044-RWS (ND Ga., June 16, 2008). Accordingly, the purported presence of the additional defendants must be ignored, and complete diversity of citizenship exists between Plaintiffs and Travelers.¹

5.

Prior to filing suit, Plaintiffs advised that their property damage are \$100,000. See Affidavit of Shaun Vogel attached hereto as Exhibit “J”. This amount, in addition to the bad faith penalties under O.C.G.A. § 33-4-6 that Plaintiffs seek in this case exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs. Because the parties are diverse and the amount in controversy threshold is exceeded, jurisdiction is proper under Section 1332 of Title 28 of the United States Code.

¹ Notwithstanding, counsel for Integrity and ProNet, without waiving any of its defenses their clients may have to Plaintiffs’ Amended Complaint, have provided Travelers with their consent to this removal.

6.

Travelers has given written notice of the filing of the Notice of Removal to Plaintiffs and the Clerk of the Superior Court of Gwinnett County. A copy of this Notice of Filing of Notice of Removal to Federal Court is attached hereto as Exhibit "K".

WHEREFORE, Travelers prays that this petition be filed, and that said action be removed to and proceed in this Court and that no further proceedings be had in this case in the Superior Court of Gwinnett County, Georgia.

Served this 22nd day of February, 2023.

CHARTWELL LAW, LLP

/s/ Karen K. Karabinos
Karen K. Karabinos
Georgia Bar No. 423906

/s/ Kevin P. Kelly
Kevin P. Kelly
Georgia Bar No. 475246

3200 Cobb Galleria Parkway
Bldg. 200, Suite 250
Atlanta, GA 30339
Tel: (470) 660-8737
Fax: (404) 738-1632
kkarabinos@chartwelllaw.com
kkelly@chartwelllaw.com

Counsel for Travelers

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date served a copy of the within and foregoing *Notice of Removal*, on opposing counsel by using this Court's CM/ECF electronic filing system, which will automatically distribute a copy of the within and foregoing to opposing counsel at:

**Paul G. Wersant
3245 Peachtree Parkway, Suite D-245
Suwanee, GA 30024
pwersant@gmail.com**

This 22nd day of February, 2023

CHARTWELL LAW, LLP

/s/ Karen K. Karabinos
Karen K. Karabinos
Georgia Bar No. 423906

3200 Cobb Galleria Parkway
Bldg. 200, Suite 250
Atlanta, GA 30339
Tel: (470) 660-8737
Fax: (404) 738-1632
kkarabinos@chartwelllaw.com

Counsel for Travelers